

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

MAXINE HERNANDEZ	§	
VS.	§	CIVIL ACTION NO. 1:08-CV-120
MR. GIBSON, ET AL.	§	

## MEMORANDUM OPINION REGARDING TRANSFER

Plaintiff Maxine Hernandez, a prisoner confined at the Hobby Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Mr. Gibson and the State of Texas. Defendant Gibson is employed at the Hobby Unit.

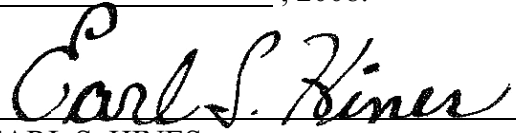
## Discussion

The Civil Rights Act, 42 U.S.C. § 1981, *et seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972); *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, Section 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. However, under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989).

Plaintiff complains of an incident that took place at the Hobby Unit. The Hobby Unit is located in the Waco Division of the United States District Court for the Western District of Texas. The court has considered the circumstances and has determined that the interests of justice would best be served if the complaint were transferred to the district in which the claims arose. Therefore, the case should be transferred to the Western District of Texas. An order so providing will be entered by the undersigned.

**SIGNED** this 28 day of March, 2008.

  
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EARL S. HINES  
UNITED STATES MAGISTRATE JUDGE